IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

CWPs No.471 & 481 of 2006

Date of decision: 22.12.2006

CWP No. 471 of 2006

H P Manyata/Sambandtha Prapt
Nizi Sansthan Sang ..... Petitioner

Vs

State of H P and others ..... Respondents

CWP No.481 of 2006

Swadesh Memorial Vivekanand Public School Bhatoli
& others ..... Petitioners

Vs.

State of H P & others ..... Respondents

Coram:

The Hon'ble Mr.Justice Deepak Gupta,J.

The Hon'ble Mr Justice Surinder Singh,J.

Whether approved for reporting ?[1]

For the Petitioner: **Mr Sanjeev Bhushan, Advocate, in CWP No.471/06 and Mr Pankaj Sharma, Advocate, vice Mr Sandeep Kaushik, Advocate, in CWP No.481/06**

For the Respondent: **Mr M S Chandel, Advocate General, with Mr Ram Murti Bisht, Deputy Advocate General.**

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[1] ***Whether the reporters of Local Papers may be allowed to see the judgment ?***

Deepak Gupta,J. (Oral)

This order shall dispose of two petitions, being CWP No. 471 of 2006 and 481 of 2006, in which challenge is laid down to certain conditions, for grant of affiliation to the Schools. A Challenge has also been made to the conditions for grant of No Objection Certificate by the State Government, under the H P Private Educational Institutions (Regulation) Rules 2003 framed under the H P Private Educational Institutions Act, 1997.

The petitioner has challenged condition No.14 of the Notification dated 24th April,2006 issued by the Board of School Education, wherein it has been laid down that no private Primary school should run within a radius of 2 kms of the Government School. As far this condition is concerned, Mr Chandel, learned Advocate General has placed on record a copy of the instructions dated 1.6.2006 issued by the State Government, whereby the aforesaid condition has been withdrawn.

The next challenge of the petitioner is that the School(s) which have been granted affiliation for the year 2006-2207 should not be again asked to apply for affiliation. Mr Kanwar,

learned counsel for respondent No.3-Board states that for all those schools, which have been granted affiliation for the academic year 2006-2007 no fresh affiliation is required for this year. He, however, submits that affiliation has to be granted within the time frame prescribed by this Court in CWP No.92 of 2006 and in case any school has not applied for affiliation within the prescribed time, the same cannot be granted affiliation now.

The third challenge of the petitioner is with regard to the fees fixed, in the Notification dated 19th October, 2004. It is contended that the fee fixed is highly excessive. The fee fixed is Rs.3,000/- for Primary Institutions, Rs.4,000/- for Middle Institutions, Rs.5,000/- for High Institutions and Rs.6,000/- for the Senior Secondary Institutions. We find that the maximum fee payable in any case is not more than Rs.9,000/- This is a one time payment and cannot be said to be so excessive as to call for interference in writ jurisdiction.

Mr Pankaj Sharma, learned counsel appearing for the petitioner in CWP No.481 of 2006 has alleged the conditions No.28 and 29, laid down by the Board of School Education, as arbitrary and

liable to be set aside. Condition No.28 prescribes that the Educational Institutions shall not carry out any commercial activities and shall not sell Uniform, shoes etc. to the students in the School(s). Condition No.29 prescribes that all the transactions, over and above Rs.500/- shall be made through the Bank. These conditions have been incorporated, pursuant to the directions issued by this Court in CWP No. 92 of 2006. These conditions are even otherwise are in the benefit of the general public, so that the institutions do not misutilize their position *vis-à-vis* the students and force the parents to purchase the uniform etc. from the schools. Similarly, condition regarding the bank transaction was incorporated because of the fact that it was seen that in a large number of cases the funds of the Educational Institutions are being mis-utilized. Therefore, these conditions cannot be said to be arbitrary and illegal. The petitions are accordingly disposed of.

It is, however, clarified that if any individual school has any other grievance, it may approach this court by filing a separate writ petition. The private educational institutions, who

have not applied may now apply for grant of No Objection Certificate from the State Government.

CMPS No.767,1976, 2065/06 in CWP No.471 of 2006 and CMP No.787 of 2006 in CWP No. 481 of 2006.

In view of the disposal of the main writ petition(s), these applications do not survive and stand disposed of accordingly.

(Deepak Gupta), J.

December 22, 2006 (Surinder Singh),J.
(D)

CWP No.481 of 2006

22.12.2006. Present: Mr Pankaj Sharma, Advocate, vice Mr Sandeep Kaushik, Advocate, for the petitioner.

Mr. M S Chandel, advocate General, with Mr Ram Murti Bisht, Deputy Advocate General, for respondents 1 and 2.

Mr Lovneesh Kanwar, Advocate, for respondent No.3.

For orders, see order of even date passed in CWP No.471 of 2006 titled as *H P Manyata/Sambandtha Prapt Nizi Sansthan versus State of H P & others.*

(Deepak Gupta),J.

Dec.22, 2006 (Surinder Singh),J.
(D)